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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the Cable
Television Consumer Protection
and Competition Act of 1992:)

Cable Home Wiring)

MM Docket No. 92-260

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COMMENTS OF RESIDENTIAL COMMUNICATIONS NETWORK, INC.

Residential Communications Network, Inc. ("RCN"), pursuant to Section 1.415 of the Commission's Rules, submits these Comments in response to the *Further Notice of Proposed Rulemaking* in the above captioned proceeding. Specifically, RCN's comments are limited to the request for comment on Liberty Cable Company, Inc.'s ("Liberty") proposal that "loop-through" wiring be included in the definition of cable home wiring under the limited circumstance where all of the subscribers on the "loop" wish to switch to an alternate service provider.^{1/} RCN believes that including "loop-through service" in the definition of cable home wiring under these circumstances will promote competition and increase consumer choice.

I. STATEMENT OF INTEREST

RCN is a wholly-owned subsidiary of C-TEC Corporation ("C-TEC") which has interests in both the telephone and video services marketplace. Specifically, C-TEC's portfolio of companies includes subsidiaries that provide telephone and cable services in various jurisdictions. RCN was

^{1/} *Petition of Liberty Cable Company, Inc. for Reconsideration and Clarification*, MM Docket No. 92-260 (filed April 1, 1993) ("*Petition*").

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formed to facilitate the convergence of C-TEC's telephone and cable/video businesses. RCN intends to provide video programming and standard telephone service to end users using wirebase and wireless technologies. As an emerging company with a business plan to provide a diverse package of video and telephone services, RCN has a vested interest in the Commission's resolution of this issue and is uniquely qualified to comment in this proceeding.

II. LOOP-THROUGH SYSTEMS SHOULD BE INCLUDED IN THE DEFINITION OF CABLE HOME WIRING UNDER CERTAIN CIRCUMSTANCES.

A. Background

As part of the Commission's decision on petitions for reconsideration of the *Cable Wiring Order*,^{2/} the Commission issued a Further Notice of Proposed Rulemaking requesting comment on Liberty's proposal, among others, that cable operators be required to allow owners of multiple dwelling units ("MDUs") to purchase "loop-through" wiring in the limited situation where all subscribers on the MDU "loop" want to switch to a new service provider. In its Petition, Liberty requested that the Commission reconsider its decision to exclude loop-through wiring from its definition of home wiring in the limited case in which all subscribers on the loop-through system wish to switch to an alternate service provider.^{3/} The Commission now seeks comment on Liberty's request in its *First Order on Reconsideration and Further Notice of Proposed Rulemaking*.^{4/}

^{2/} 8 FCC Rcd. 1435 (1993).

^{3/} *Petition* at 6-7.

^{4/} *First Order on Reconsideration and Further Notice of Proposed Rulemaking*, MM Docket 92-260 (rel. Jan. 26, 1996) ("*Further Notice*").

B. Adoption of Liberty's Proposal will Promote Competition

RCN concurs with Liberty that the Commission should reconsider and amend its exclusion for "loop-through systems" from the definition of cable home wiring, in those limited cases where all subscribers on the "loop" have decided to terminate franchised cable service and switch to service from an alternate provider. Under such limited circumstances, to give customers a choice of service providers, it is practical and efficient for the alternate provider to take over the existing loop-through system in its entirety. Liberty's proposed amendment to the FCC's definition of cable home wiring is consistent with the basic premise of the Cable Television Consumer Protection and Competition Act of 1992, *i.e.*, to promote increased competition in the provision of cable services by alternate providers.^{5/}

No resident would be adversely affected by such an amendment for the limited case where all building residents on a loop-through system wish to switch to an alternate provider. Instead, MDU residents would benefit from increased efficiency when all of the residents on the "loop" wish to switch from a franchise provider to an alternate cable provider. Moreover, RCN submits that to exempt loop-through systems from the definition of cable home wiring would deny consumers who live in MDUs the benefits of competition as envisioned by Congress in Section 16(d) of the Cable Television Consumer Protection and Competition Act of 1992. Thus, it is RCN's position that loop-through cable wiring in MDUs should be included in the definition of cable home wiring in the limited circumstance where all subscribers on the "loop" or common wire want to terminate franchised cable service and switch to an alternate service provider.

^{5/} See Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, Sections 2(a)(6), 2(b)(1-2), 106 Stat. 1460 (1992).

C. The Building Owner or Individual Charged With Control of the Loop Should Control Choice of Service, not the Service Provider

The Commission expressed concern that if MDU owners are allowed to control the loop-through inside wiring, they could supersede subsequent subscribers' wishes to select another competing service provider.^{6/} The Commission therefore seeks comment on how to apportion control of a loop-through wiring system, including how to assure that subscribers have a choice of multichannel video programming service providers. RCN believes that, given the nature of loop-through wiring and the availability of competitive bulk cable service (at lower prices) for such wiring, there is no real need for concern about MDU owner control of such wiring.

First, the design of loop-through wiring does not allow individual subscribers to independently choose separate services using the loop, so that all subscribers on the loop must take the same service. As a result, the person who controls the loop also controls the service. Nonetheless, subscribers of loop-through wiring can benefit from bulk cable service, which is offered at lower prices than non-bulk service. RCN understands that when building owners control the loop, competition among Multichannel Video Programming Distributor ("MVPDs") to sell bulk cable service to the owner effectively lowers the rates even further for building residents. Conversely, competition for bulk cable service on loop-through wiring is thwarted if the franchised cable company owns or controls the loop, because in that case neither the building owner nor the individual subscriber has a choice of service providers for the loop.

Accordingly, RCN believes that the customer (whether the building owner or the individual) should be allowed to acquire the cable on their premises when they change MVPD providers. The

^{6/} *Further Notice* at ¶40.


Commission should therefore include loop-through wiring in the definition of cable home wiring when all customers on the loop select a new service provider, so that control of the loop is transferred back to the building owner. This approach would provide alternate service providers the opportunity to compete for access to consumers in MDU buildings with loop-through wiring.

III. CONCLUSION

For the foregoing reasons, RCN urges the Commission to grant Liberty's Petition and require cable operators to allow owners of MDUs to purchase loop-through wiring in the limited situation where all subscribers on the MDU "loop" want to switch to a new service provider.

Respectfully submitted,

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